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SUBJECT: WORLD INTELLECTUAL PROPERTY ORGANIZATION (WIPO)  
INTERGOVERNMENTAL COMMITTEE ON INTELLECTUAL PROPERTY AND  
GENETIC RESOURCES, TRADITIONAL KNOWLEDGE AND FOLKLORE (IGC)

#### SUMMARY

[1](#)1. The Eighth Session of the World Intellectual Property Organization (WIPO) Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC) was held in Geneva, Switzerland from June 6-10, 2005. The U.S. Delegation Consisted of Dominic Keating, Patent Attorney, USPTO; Michael Shapiro, Attorney-Advisor, USPTO; Peggy Bulger, Director, American Folklife Center, Library of Congress; Marla Poor, Attorney-Advisor, U.S. Copyright Office, Library of Congress; Ana Christina Villegas, Conservation Officer, U.S. Department of State; Leonard Hirsch, Senior Policy Advisor, Smithsonian Institution; Jon Santamauro, Intellectual Property Attache, U.S. Mission to the WTO, Geneva; and Lisa Carle, Counselor, Economic and Science Affairs, U.S. Permanent Mission to the United Nations Office and Other International Organizations, Geneva. This was the last meeting of the IGC, existing mandate.

#### ELECTION OF OFFICERS

[1](#)2. The Committee unanimously elected Ambassador Makarim Wibisona of Indonesia as Chair.

#### ACCREDITATION OF CERTAIN NGOS

[1](#)3. The Committee unanimously approved accreditation of the following organizations as ad hoc observers: Centre for the Management of IP in Health R&D (MIHR), Consumers International (CI), Indigenous Knowledge Systems of South Africa Trust (IKSSA Trust), Indigenous Peoples Council on Biocolonialism (IPCB), International Committee for Museums of Ethnography (ICME), Maasai Education Discovery (M.E.D), National Council of Otomi / Consejo de la nacion Otomi, Ogiek Peoples Development Program (OPDP), Peruvian Society for Environmental Law (SPDA), Associacao Paulista da Propriedade Intelectual (ASPI), The Fridtjof Nansen Institute (NFI) and the Graduate Institute for Development Studies (GREG).

#### PARTICIPATION OF INDIGENOUS AND LOCAL COMMUNITIES

[1](#)4. The Committee discussed a voluntary fund for the participation of indigenous and local communities, as described in document WIPO/GTRKF/IC/8/3. Although there was broad, general support for the proposal, divergent views were expressed on specific aspects of it, including on whether the fund should be able to draw from the ordinary budget, the composition of the advisory board and the purpose of the fund. It was agreed that a revised draft document WIPO/GTRKF/IC/8/3 would be prepared and published by June 17, [2](#)005. Committee participants would be asked to provide written comments on the revised draft by July 15, 2005 and a third revision of the proposal would be prepared and published by the end of July for consideration by the next session of the General Assembly.

#### TRADITIONAL CULTURAL EXPRESSIONS AND TRADITIONAL KNOWLEDGE

[1](#)5. The IGC considered documents WIPO/GTRKF/IC/8/4 and WIPO/GTRKF/IC/8/5, including draft provisions contained in the annex of these documents in treaty-like form. While Brazil and other delegations expressed support for the draft provisions as a basis for a legally-binding international treaty, the United States, Australia, Canada and Japan expressed concern, explaining that these provisions were not developed on the basis of the objectives and principles expressed by Members of the IGC, and that they were created by the Secretariat, without input from Member States. As a result of extensive discussions and consultations on these documents, Members agreed to a draft decision that noted the divergent views on these documents without agreeing to continue to negotiate the provisions, as implied by the decision paragraphs of the documents. In the plenary session, prior to the adoption of the decision, the representative of Nigeria asked the Chair for clarification on whether the draft provisions would be updated to reflect the views expressed by Members. After the Chair explained his view that the documents may be updated, the United States cautioned the Chair against any interpretation of the draft decision, explaining that this may unravel a delicately balanced text. The United States also explained that it was willing to adopt the decision only on the understanding that

the decision paragraph would not be adopted and that the draft provisions would not be updated. No other statements were made and the decision was adopted. Following the meeting, the Secretariat confirmed that it did not intend to update the draft provisions.

#### GENETIC RESOURCES

16. The Committee took note of documents WIPO/GRTKF/IC/8/9, WIPO/GRTKF/IC/8/10, WIPO/GRTKF/IC/8/11, WIPO/GRTKF/IC/8/12, WIPO/GRTKF/IC/8/13 AND WIPO/GRTKF/IC/8/14, and further took note of the diverse views expressed on this issue.

#### FUTURE WORK

17. Although Brazil and other delegations had originally pushed to drop genetic resources from the agenda and to have a target date for any instrument(s) by the end of the next budgetary biennium, following extensive consultations, the Committee noted the broad support from Committee participants on the future work of the Committee and agreed to recommend to the General Assembly that the mandate of the Committee be extended to the next budgetary biennium to continue its work on traditional knowledge, traditional cultural expressions/folklore and genetic resources.

#### NOTE

18. From the outset, Australia, Canada, the EU, Japan, New Zealand and Norway strongly voiced support for a positive recommendation to the General Assembly for a renewed IGC mandate. Some developing country delegations called for an enhanced mandate, to accelerate work on a binding international legal instrument and Brazil wanted to remove genetic resources from the IGC mandate. The United States highlighted the importance of reaching an agreement on the terms of reference for any new mandate prior to making any recommendation to the General Assembly on the IGC,s mandate, and questioned whether this would be possible to achieve at this session of the IGC. The United States took the initial position that any new mandate should focus on national experiences and should not be accelerated or limited in subject matter. Australia, Canada and Japan were of the view that the new mandate should not be accelerated or limited in subject matter. The Africans were interested in continuing the work of the IGC, and may have convinced Brazil and other Latin American Countries to drop their demands related to the mandate, in order to facilitate a positive recommendation from the IGC to the General Assembly on the future mandate.

19. Furthermore, it appears that the African Group and other developing countries were forced to drop their demands for a negotiation on the draft traditional cultural expressions and traditional knowledge provisions in order to reach an agreement for a positive recommendation to the General Assembly on the future mandate.

110. It appears that Brazil wanted to remove genetic resources from the IGC,s mandate in order to create additional pressure that may help to elevate genetic resources in general, and a new disclosure requirement in the patent laws in particular, to a negotiating item in the Doha Trade round of the World Trade Organization (WTO), in the lead up to the Hong Kong Ministerial Conference scheduled to be held at the end of this year, while satisfying the desire of the Africa Group to continue work on TCE,s and TK. This move may also have been designed to create pressure on the CBD Ad Hoc ABS Working Group, which is also considering new disclosure requirements.

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